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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,620	01/31/2005	Eiji Terada	264732US0PCT	6922
22850 7590 04/30/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER DELCOTTO, GREGORY R				
ART UNIT 1796		PAPER NUMBER		
NOTIFICATION DATE 04/30/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/522,620

Applicant(s)

TERADA, EIJI

Examiner

Gregory R. Del Cotto

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 5, 7, 9-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 7, 9-16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date 1/29/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1, 4, 5, 7, 9-16, and 18-20 are pending. Claims 2, 3, 6, 8, and 17 have been canceled. Applicant's arguments and amendments filed 6/3/08 have been entered. Claim 20 is withdrawn from consideration as being drawn to a non-elected invention.

Objections/Rejections Withdrawn

The following objections/rejections as set forth in the Office action mailed 1/10/08 have been withdrawn:

The rejection of claims 1, 4, 5, 9-11, and 15 under 35 U.S.C. 103(a) as being unpatentable over Scialla et al (US 6,262,007) in view of Evans et al (6,171,515) has been withdrawn.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 4, 5, 7, 9-12, 15, 16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bratescu et al (US 6,528,070) in view of Evans et al (6,171,515) and Scialla et al (US 6,262,007).

Bratescu et al teach emulsions containing an emulsification system containing a mixture of at least one cationic surfactant, at least one anionic surfactant, at least one "bridging surfactant", an oil and water, along with methods for preparing such emulsions. The emulsions are useful in preparing a variety of finished personal care, laundry, and cleaning products, including laundry detergents, textile treatment compositions, etc. See Abstract. More specifically, the emulsions contain from about 0.3% to about 15% by weight of an emulsification system comprising from about 0.1% to about 8% by weight of a cationic surfactant, from about 0.1% to about 8% by weight of an anionic surfactant, from about 0.1% to about 8% by weight of a bridging surfactant, from about 3% to about 70% by weight of an oil, from about 15% to about 97% by weight of water. See column 4, lines 50-65. Suitable anionic surfactants include an alkyl sulfate having an average of from about 8 to about 16 carbon atoms, an alkyl ether sulfate having an average of from about 8 to about 16 carbon atoms in the alkyl portion and from about 1 to about 30 moles of ethylene oxide, etc. See column 9, lines 1-15. Suitable oils include a silicon oil, mineral oil, a cosmetic ester or petrolatum, or a mixture thereof. See column 23, lines 45-60.

The compositions in final form may include may other optional ingredients such as pH adjusting agents including citric acid, succinic acid, etc. The compositions generally contain water as the solvent but may include other solvents such as ethanol,

propanol, ethylene glycol, etc. The compositions generally contain from about 5 to about 90 percent by weight of solvent. Additionally, the pH of the compositions are generally from about 2 to about 10. See column 36, lines 1-25. Furthermore, the composition may contain a preservative such as benzyl alcohol, etc. See column 35, lines 50-55.

Bratescu et al do not teach the specific amounts of carboxylic acids, specific silicone derivatives or a composition having the specific pH containing an anionic surfactant, a carboxylic acid, a silicone derivative, solvent, and the other requisite components of the composition in the specific amounts as recited by the instant claims.

Evans et al teach a fiber treatment composition which contains siloxanes having amine- and polyol- functionalities. The composition provides good hand, resistance to yellowing, and hydrophilicity to the fibers. The composition is preferably formulated as an aqueous emulsion. See Abstract and column 3, lines 10-20. Note that, the siloxane as taught by Evans et al is the same as the silicone derivative as recited by the instant claims. See column 3, lines 20-69. The textile treatment composition can have any suitable form. For example, the composition can be applied to the textile neat. However, the textile treatment composition can be a solution, dispersion, or emulsion. See column 6, lines 35-45. The fiber treatment composition can be applied to the fibers during the making of the fibers or later, such as during laundering the fabric. The textiles that can be treated with the textile treatment composition include natural fibers such as cotton, silk, linen, and wool; regenerated fibers such as rayon and acetate,

synthetic fibers such as polyesters, polyamides, polyacrylonitriles, polyethylenes, etc.

See column 7, lines 35-69.

Scialla et al teach self-thickened aqueous cleaning compositions which comprise an alkyl sulfate anionic surfactant and an electrolyte system. See Abstract. Specifically, Scialla et al teach self-thickened aqueous cleaning compositions containing from 1% to 25% by weight of an alkyl sulphate anionic surfactant derived from natural coconut oil, from 0.1 to 8% by weight of the total composition of ammonium salts, from 0.5% to 25% by weight of the total composition of an alkoxyated component, and from 0.01% to 0.5% by weight of the total composition of a capped 1,2-propylene terephthalate polyoxyethylene terephthalate polyester. See claim 1. The composition has a pH in the range of from 1 to 6. See claim 7. The compositions may be used for cleaning laundry. See column 5, lines 5-15. The compositions can be adjusted by the use of acidifiers such as citric acid, maleic acid, succinic acid, etc. See Column 3, lines 45-60. The acidifier may be used in amounts from 0.5 to 20% by weight and the Examiner asserts that this amount of acidifier is applicable to all the acids listed by Scialla et al. See column 3, lines 55-69.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a specific silicone derivative in the composition taught by Bratescu et al, with a reasonable expectation of success, because Evans et al teach that the use of the specific silicone derivative in a similar composition used to launder or treat fabrics provides provides good hand, resistance to yellowing, and hydrophilicity to

the textile fibers which would be desirable in the cleaning compositions taught by Bratescu et al.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use an acid such as succinic acid in the composition taught by Bratescu et al in the specific amounts as recited by the instant claims, with a reasonable expectation of success, because Scialla et al teach the use of an acid pH adjusting agent in amounts which overlap with the ranges recited by the instant claims in a similar composition and further, Bratescu et al teach the use of acid pH adjusting agents such as succinic acid.

With respect to instant claim 11, the Examiner asserts that it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use maleic acid in the composition taught by Bratescu et al, with a reasonable expectation of success, because Scialla et al teach the equivalence of succinic acid to maleic acid as pH adjusters in a similar composition and further, Bratescu et al teach the use of succinic acid.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing an anionic surfactant, a carboxylic acid, a specific silicone derivative, solvent, and the other requisite components of the composition in the specific amounts as recited by the instant claims, with a reasonable expectation of success, because the broad teachings of Bratescu et al in combination with Evans et al and Scialla et al suggest a composition containing an anionic surfactant, a carboxylic acid, a specific silicone derivative, solvent, and the other

requisite components of the composition in the specific amounts as recited by the instant claims.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bratescu et al (US 6,528,070) in view of Evans et al (6,171,515) and Scialla et al (US 6,262,007) as applied to claims 1, 4, 5, 7, 9-12, 15, 16, 18, and 19 above, and further in view of EP 181,773.

Bratescu et al are relied upon as set forth above. However, Bratescu et al do not teach the specific amount of a solvent such as benzyl alcohol in addition to the other requisite components of the composition as recited by the instant claims.

'773 teaches conditioning shampoos which have a dispersed, non-volatile silicone phase and are stabilized through the use of certain long chain materials. See page 2, lines 15. Additionally, the compositions contain optional ingredients such as preservatives including benzyl alcohol, etc. The optional ingredients are used individually at a level of from 0.01% to 10% by weight of the composition.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use the specific amount of solvent such as benzyl alcohol as recited by instant claims 13 and 14 in the composition taught by Bratescu et al, with a reasonable expectation of success, because '773 teaches the use of benzyl alcohol as a preservative in a similar composition in amounts which fall within the ranges recited by instant claims 13 and 14 and further, Bratescu et al teach the use of benzyl alcohol as preservatives.

Response to Arguments

Note that, with respect to the rejection of the instant claims under 35 USC 103 using Bratescu et al in view of Scialla et al and Evans et al, Applicant states that none of the applied prior art discloses or suggests recited component (d) which have been limited to aromatic compounds. In response, note that, the Examiner asserts that Bratescu et al teach the use of benzyl alcohol which is the same as the benzyl alcohol listed by instant claim 7 as one of the possible choices for component (d) as recited by the instant claims. Thus, the Examiner asserts that Bratescu et al in view of Scialla et al and Evans et al is sufficient render the instant claims obvious under 35 USC 103.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory R. Del Cotto/
Primary Examiner, Art Unit 1796

/G. R. D./
April 25, 2009